

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**ERICA MONTOYA, on behalf of)
herself and all others similarly)
situated,)**

Plaintiff,

V.

No.:

**GOOGLE, LLC and GOOGLE)
PAYMENT CORP.,)**

Defendants.

STATEWIDE CLASS ACTION COMPLAINT

Plaintiff Erica Montoya, on behalf of herself and others similarly situated, brings this action against defendants Google LLC and Google Payment Corporation (hereafter “Google”), to recover money lost to illegal gambling pursuant to Section 44-5-1 of the New Mexico Statutes, 2018. See also NM Stat. §§ 30-19-1 et seq. Google promotes, enables, and profits from games downloaded from its Google Play Store and played by numerous New Mexico residents that constitute illegal gambling under the statutory law and the strong public policy of the state of New Mexico. Plaintiff seeks to represent a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Erica Montoya is an adult resident citizen of the state of New Mexico, residing in Bernalillo County, New Mexico.

2. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC is the primary operating subsidiary of the publicly traded holding company Alphabet Inc. Google LLC does business by agent in this state, district, and division.

3. Defendant Google Payment Corp. is a Delaware corporation with its principal place of business in Mountain View, California. It is a wholly-owned subsidiary of defendant Google LLC. Google Payment Corp. provides in-app payment processing services to Android app developers and Android users, collecting a 30% commission on most in-app purchases such as the ones made the basis of this lawsuit. It does business by agent in this state, district, and division. For ease of reference, Google LLC and Google Payment Corp. will be referred to hereinafter collectively as “Google.”

4. This is a class action brought by New Mexico citizens against a California company. The amount in controversy exceeds \$5 million, exclusive of interest and costs. Subject matter jurisdiction exists pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d).

5. Venue is proper under 28 U.S.C. § 1391(b)(2), because this is a “judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.”

FACTUAL BACKGROUND

6. Google is one of the leading technology companies in the world. Its parent company Alphabet Inc. has a market capitalization approaching \$1 trillion. One of its leading businesses stems from its ownership and control of the Android mobile operating system, which is installed on virtually every smart phone and tablet not manufactured by Apple. Nearly all applications that run on the Android operating system are downloaded via the Google Play Store.

7. While the Android OS was originally touted as an “open” system that allowed for installation of software applications not controlled by Google, today the truth is quite different. Google has erected contractual and technological barriers that foreclose any competing methods to distribute apps to Android users. As a result, the Google Play Store maintains an almost-total monopoly on the distribution of apps made to run on the Android OS, including in-app purchases. As noted, Google takes up to 30% of all revenue generated by app sales in the Google Play Store and in-app purchases made on apps obtained through the Google Play Store. Millions of software developers make applications for the Android OS that as a practical matter are available only via the Google Play Store.

8. Many apps, including those that are the subject of this lawsuit, are initially free to download but contain in-app purchases that a customer can choose to purchase inside the app. Google provides the payment interface for all such purchases and, as noted, takes a hefty percentage of the money for itself. A 30% processing fee is many times the charge that other payment processors outside the Android ecosystem, such as Western Union, charge for processing such payments.

9. The money charged for in-app purchases is paid to Google. An Android customer is required to provide a method of payment, usually a credit or debit card, for all purchases made in the Google Play Store, including in-app purchases. Google then has a contractual obligation to the software developers to remit a portion of the money Google receives from the purchases, typically 70%, to the developers. This contractual arrangement is between Google and the developers who sell products in the Google Play Store. As between plaintiff and the class members and Google, however, all in-app and other purchases involve the payment of money *to Google*, not the developers.

10. This case concerns Google's profiting from illegal gambling machine games that it sells in its Google Play Store. Google and its chief mobile software competitor, Apple, both allow customers to purchase games that are no more or no less than casino-style slot machines, casino style table games, and other common gambling games.

11. There are numerous such gambling games that Google makes available in the Google Play Store, and there is very little variation on how they work. When a customer downloads the game and opens it for the first time, the customer has a set number of free starting “coins,” for example, 100,000 or 1,000,000, to play the slots. The games themselves work precisely like a casino slot machine or other games in Las Vegas. In addition to slots, customers can play blackjack, roulette, poker, keno, bingo, and other card and gambling games. A loss results in a loss of “coins,” but the customer has the chance to win more coins. Eventually a customer runs out of coins, and is prompted to use real money to buy more coins for the opportunity to keep playing the game. Hundreds of such games exist. The 200 most downloaded games are in the following table:

1	Slotomania™ Free Slots: Casino Slot Machine Games	101	Bingo Adventure-Free casino game with bingo bonus
2	Jackpot Party Casino Games: Spin FREE Casino Slots	102	Superb Casino - HD Free Slots Games
3	Cash Frenzy™ Casino – Free Slots Games	103	FoxwoodsONLINE - Free Casino
4	POP! Slots™- Play Vegas Casino Slot Machines!	104	Gambino Slots: Free Online Casino Slot Machines
5	Cashman Casino: Vegas Slot Machines! 2M Free!	105	Blazing 7s™ Casino Slots - Free Slots Online
6	DoubleU Casino - Free Slots	106	Bravo Casino- Free Vegas Slots
7	Vegas Slots - DoubleDown Casino	107	Baba Wild Slots - Slot machines Vegas Casino Games
8	House of Fun™: Free Slots & Casino Slots Machines	108	VegasStar™ Casino - FREE Slots
9	Lotsa Slots - Free Vegas Casino Slot Machines	109	Grand Win Casino - Hot Vegas Jackpot Slot Machine
10	Huuuge Casino Slots - Slot Machines 777	110	MONOPOLY Bingo!
11	Slots: Heart of Vegas™ – Free Slot Casino Games	111	Texas HoldEm Poker Deluxe

12	Big Fish Casino - Play Slots and Casino Games	112	Vegas World Casino: Free Slots & Slot Machines 777
13	Lightning Link Casino: Free Vegas Slots! 10M Bonus	113	Casino X - Free Online Slots
14	Caesars Casino: Free Slots Games	114	Lucky Play Casino – Free Las Vegas Slots Machines
15	Wizard of Oz Free Slots Casino	115	Bingo Holiday: Free Bingo Games
16	Hit it Rich! Lucky Vegas Casino Slot Machine Game	116	Bingo City 75: Free Bingo & Vegas Slots
17	Quick Hit Casino Games - Free Casino Slots Games	117	Real Casino - Free Vegas Casino Slot Machines
18	Billionaire Casino Slots - Slot Machines 777	118	Double Win Vegas - FREE Slots and Casino
19	Jackpot Magic Slots™: Social Casino & Slot Games	119	DoubleX Casino - Free Slots
20	Gold Fish Casino Slots - FREE Slot Machine Games	120	Lucky Draw - 3D Casino Slots
21	Scatter Slots - Hot Vegas Slot Machines Casino 777	121	Slot Bonanza - Free casino slot machine game 777
22	myVEGAS Slots - Las Vegas Casino Slot Machines	122	Real Casino Vegas:777 Classic Slots & Casino Games
23	Zynga Poker – Free Texas Holdem Online Card Games	123	Wheel of Fortune Slots Casino
24	Game of Thrones Slots Casino - Slot Machine Games	124	WinStar Online Casino & eGames
25	Jackpot Mania™ - DAFU Casino Vegas Slots	125	Stardust Casino Slots – FREE Vegas Slot Machines
26	my KONAMI Slots - Free Vegas Casino Slot Machines	126	World Poker Tour - PlayWPT Free Texas Holdem Poker
27	Bingo Pop - Live Multiplayer Bingo Games for Free	127	Epic Diamond Slots – Free Vegas Slot Machines
28	Club Vegas: Online Slot Machines with Bonus Games	128	Quick Cash Classic Slots - Free Vegas Slots Games
29	MONOPOLY Slots Free Slot Machines & Casino Games	129	Win Vegas x NASCAR: 777 Classic Slots, Free Casino
30	Cash Tornado Slots - Vegas Casino Slots	130	Magic Vegas Casino: Slots Machine
31	Willy Wonka Slots Free Casino	131	mychoice casino jackpot slots + free casino games
32	Vegas Live Slots : Free Casino Slot Machine Games	132	Vegas Casino Slots 2020 - 2,000,000 Free Coins
33	GSN Casino: Play casino games- slots, poker, bingo	133	Slots Vacation - FREE Slots
34	88 Fortunes - Casino Games & Free Slot Machines	134	Slots Billionaire: Free Slots Casino Games Offline
35	Bingo Journey - Lucky & Free Bingo Games	135	The Big Jackpot

36	Slots (Golden HoYeah) - Casino Slots	136	DoubleDown Classic Slots - FREE Vegas Slots!
37	Neverland Casino Slots 2020 - Social Slots Games	137	Buffalo 5-Reel Deluxe - Free Classic Slots Casino
38	Cash Mania Slots - Free Slots Casino Games	138	Best Casino Slots - 777 Vegas Slots Games
39	Classic Slots-Free Casino Games & Slot Machines	139	Video Poker - Classic Casino Games Free Offline
40	Tycoon Casino™: Free Vegas Jackpot Slots	140	Play Las Vegas - Casino Slots
41	Jackpot Slot Machines - Slots Era™ Vegas Casino	141	Vegas Night Slots - HOT&FREE VEGAS CASINO GAMES
42	Double Win Casino Slots - Real Vegas Night Slots	142	Full House Casino - Free Vegas Slots Machine Games
43	Vegas Friends - Casino Slots for Free	143	Ultimate Slots: 2019 Vegas Casino Slot Machines
44	Hot Shot Casino: Free Casino Games & Blazing Slots	144	Let's Vegas Slots
45	High 5 Casino: The Home of Fun & Free Vegas Slots	145	Bingo 90 Live: Vegas Slots & Free Bingo
46	Rock N' Cash Casino Slots -Free Vegas Slot Games	146	Slots of Vegas
47	Ignite Classic Slots	147	Lucky Lottery Scratchers
48	Casino Slots DoubleDown Fort Knox Free Vegas Games	148	San Manuel Slots
49	Bingo Blaze - Free Bingo Games	149	Diamond Sky Casino – Classic Vegas Slots & Lottery
50	Winning Slots casino games:free vegas slot machine	150	Best Bet Casino™ Best Free Slots & Casino Games
51	Huge Win Slots - Real Casino Slots in Vegas Nights	151	Vegas Craps by Pokerist
52	Double Rich - Hottest Vegas Casino Slots Games	152	Vegas Slots Galaxy Free Slot Machines
53	Slots Casino - Jackpot Mania	153	Slots : FREE Vegas Slot Machines - 7Heart Casino!
54	Jackpot Fever – Free Vegas Slot Machines	154	麻將 明星3缺1麻將—台灣16張麻將 Mahjong 、SLOT、Poker
55	Slots™ - Classic Slots Las Vegas Casino Games	155	Woohoo Slots : Play Free Casino Slot Machine Games
56	Wild Classic Slots™ - Best Wild Casino Games	156	Slots™
57	Casino Jackpot Slots - Infinity Slots™ 777 Game	157	Casino Frenzy - Free Slots
58	星城Online	158	Manly Slots: Slots for Men
59	Stars Slots Casino - Vegas Slot Machines	159	Spin 4 Win Slots - Real Vegas for Senior Slot Fan

60	Wynn Slots - Online Las Vegas Casino Games	160	Multi-Strike Poker™ Free Multi-Play Video Poker
61	Bingo: Lucky Bingo Games Free to Play at Home	161	Seminole Social Casino
62	Clubillion™- Vegas Slot Machines and Casino Games	162	Ellen's Road to Riches Slots & Casino Slot Games
63	Coin Dozer: Sweepstakes	163	Players Paradise Casino Slots - Fun Free Slots!
64	Lucky Time Slots Online - Free Slot Machine Games	164	SLOTS GRAPE - Free Slots and Table Games
65	Show Me Vegas Slots Casino Free Slot Machine Games	165	Bingo PartyLand 2 - Free Bingo Games
66	Bingo Frenzy! Bingo Cooking Free Live BINGO Games	166	Star Spins Slots: Vegas Casino Slot Machine Games
67	Cash Storm Casino - Online Vegas Slots Games	167	Slots! CashHit Slot Machines & Casino Games Party
68	Slots: DoubleHit Slot Machines Casino & Free Games	168	DoubleU Bingo - Free Bingo
69	FaFaFa™ Gold Casino: Free slot machines	169	VIDEO POKER OFFLINE FREE!
70	SLOTS - Black Diamond Casino	170	Poker Night in America
71	NEW SLOTS 2020 — free casino games & slot machines	171	Super Jackpot Slots - Vegas Casino Slot Machines
72	Bingo Club--Pop bingo games online with numbers	172	City of Dreams Slots - Free Slot Casino Games
73	Cash Blitz - Free Slot Machines & Casino Games	173	Sunny's Rooster Reels
74	Bingo Drive – Free Bingo Games to Play	174	Vegas Deluxe Slots:Free Casino
75	Vegas Downtown Slots™ - Slot Machines & Word Games	175	Binion's Casino
76	Old Vegas Slots – Classic Slots Casino Games	176	CLUE Bingo!
77	Jackpotjoy Slots: Slot machines with Bonus Games	177	OMG! Fortune Slots - Grand Casino Games
78	HighRoller Vegas - Free Slots & Casino Games 2020	178	بوكر تكساس بويا (Texas Boya Poker)
79	Golden Tiger Slots - Online Casino Game	179	Bingo Infinity™ - Free Casino Slots & Bingo Games
80	ManganDahen Casino - Free Slot	180	777 Slots - Free Vegas Slots!
81	Coin Trip	181	Coin Dozer: Casino
82	Golden Casino: Free Slot Machines & Casino Games	182	Bingo Town - Live Bingo Games for Free Online
83	Free Slot Machines & Casino Games - Mystic Slots	183	High Rollin' Vegas Slots
84	The Walking Dead: Free Casino Slots	184	Lucky North Casino- Free Slots
85	Take5 Free Slots – Real Vegas Casino	185	Lucky Win Casino™- FREE SLOTS

86	DH Texas Poker - Texas Hold'em	186	NPlay Pro
87	Gold Fortune Casino™ - Free Vegas Slots	187	Lucky Duck Slots
88	ZitoBox	188	Slots Free - Vegas Casino Slot Machines
89	Grand Jackpot Slots - Pop Vegas Casino Free Games	189	Tongits Go - The Best Card Game Online
90	Video Poker Classic Free	190	Play To Win: Win Real Money in Cash Sweepstakes
91	Jackpot Planet - a New Adventure of Slots Games	191	Dragon 88 Gold Slots - Free Slot Casino Games
92	Slingo Arcade: Bingo Slots Game	192	777 Classic Slots: Free Vegas Casino Games
93	Super Win Slots - Real Vegas Hot Slot Machines	193	Link It Rich! Hot Vegas Casino Slots FREE
94	GSN Grand Casino – Play Free Slot Machines Online	194	Golden Wins Casino Slots
95	Hard Rock Social Casino	195	Slots on Tour Casino - Vegas Slot Machine Games HD
96	Slots Free - Big Win Casino™	196	Cash Fever Slots™-Vegas Casino
97	Epic Jackpot Slots - Free Vegas Casino Games	197	Teen Patti Gold - 3 Patti, Rummy, Poker Card Game
98	Slots Pharaoh's Way Casino Games & Slot Machine	198	HD Poker: Texas Holdem Online Casino Games
99	GamePoint Bingo - Free Bingo Games	199	Cashmania Slots 2020: Free Vegas Casino Slot Game
100	Vegas Slots: Deluxe Casino	200	Live Poker Tables–Texas holdem and Omaha

12. Plaintiff Erica Montoya downloaded and played three of these casino-style gambling games. During the last three years, she has downloaded House of Fun, Zito Box, and Jackpot Party from the Google Play Store. Beginning on August 21, 2017, she began purchasing coins through the app so she could continue to play for a chance to win free coins that would enable her to enjoy the games for a longer period of time. In the six months prior to the filing of this complaint, she paid \$784.44 to Google for the privilege of continuing to play the illegal gambling games.

13. A customer such as plaintiff does not have the ability to collect actual cash as a result of “winning” games, but he does have the ability to win and therefore

acquire more playing time. The Supreme Court of New Mexico has made it clear that paying money in a game of chance for the opportunity to win free replays or additional playing time constitutes illegal gambling under New Mexico law. Giomi v. Chase, 132 P.2d 715, 718-19 (N.M. 1942).

14. Google is not some minor or incidental participant in these illegal gambling games. It is the principal promoter and facilitator of the illegal activity. Google maintains dictatorial control over what apps can be downloaded from the Google Play Store, and the payment method to purchase in-app items. As the maker of the Fortnite game alleged in a recent antitrust injunction lawsuit against Google:

Google has eliminated competition in the distribution of Android apps using myriad contractual and technical barriers. Google's actions force app developers and consumers into. Google's own monopolized "app store"—the Google Play Store. Google has thus installed itself as an unavoidable middleman for app developers who wish to reach Android users and vice versa. Google uses this monopoly power to impose a tax that siphons monopoly profits for itself every time an app developer transacts with a consumer for the sale of an app or in-app content

Complaint for Injunctive Relief, Epic Games v. Google LLC, et al, in the United States District Court for the Northern District of California, August 13, 2020, C3:20-cv-05671 ¶ 10 (copy attached). As noted, Google uses its unfettered control over apps played on the Android OS to extract a hefty 30% tax on all purchases made to buy apps or in-app content such as "coins" to gamble with.

15. The tokens purchased by Plaintiff and other users are purchased directly from Google and the money is paid to google. The only purpose of these tokens is

to allow users to gamble in the games. They have no other value. Furthermore, the gambling function of the app cannot exist without Google facilitating sale of the tokens. The app cannot directly sell the ability to gamble for more time to users; Google's sale of the tokens is a necessary step to facilitate gambling.

16. Google has the ability, which it has employed on other apps, to geo-restrict games so that they can only be played in certain states. In fact, with cash-out gambling games it regularly restricts those game so that they can only be played in states where that type of gambling is legal. Google has also restricted gambling games such as the ones made the basis of this lawsuit so that minors cannot download or play them. It has the ability with existing technology it currently uses to prevent the games at issue here from being played in this state.

17. Google's Play Store is not just a venue to buy Android apps. It is a promotional tool. Google heavily promotes apps, such as the illegal gambling games that form the basis of this complaint, that promise to bring in revenue. Revenue from the Google Play Store is the reason Google is such a dominant force in the technology world.

18. Thus, Google enables, permits, promotes, and profits from illegal gambling.

NEW MEXICO LEGAL FRAMEWORK

19. New Mexico has a strong public policy against gambling in this state. The state's strong public policy against gambling includes a statutory right of persons who spend money on gambling to recover their money.

20. The New Mexico criminal laws pertaining to gambling are codified at Sections 30-19-1 through 30-19-15 of the New Mexico Statutes, 2018. Section 30-19-3 defines the offense of commercial gambling to include the following:

A. participating in the earnings of or operating a gambling place;

* * *

F. setting up for use, for the purpose of gambling, or collecting the proceeds of, any gambling device.

NM Stat. § 30-19-3.

21. Section 30-19-1, in turn, defines a “gambling device:”

“gambling device” means a contrivance other than an antique gambling device that is not licensed for use pursuant to the Gaming Control Act and that, for a consideration, affords the player an opportunity to obtain anything of value, the award of which is determined by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the device

NM Stat § 30-19-1.

22. As already noted, “anything of value” in the definition of gambling device is not limited under New Mexico law to the situation where one gambles in the hopes of winning actual cash money. Rather, New Mexico's Supreme Court has

long held that the definition includes the opportunity to win free replays or the extension of time. Giomi v. Chase, 132 P.2d 715, 718-19 (N.M. 1942). As a matter of law, paying money to get “coins” one bets hoping to win more “coins” so as to gain the “privilege of playing at a game or scheme without charge” is gambling a thing of value under New Mexico law.

23. As to the prohibition of commercial gambling in Section 30-19-3, the statute prohibits participating in the earnings of a gambling place and setting up a gambling device. By allowing gambling apps to operate on the Google Play Store and taking a significant percentage of the money paid by users to play them, Google participates in the earnings of a gambling place. By providing a platform on which apps operate gambling devices, it helps to set up such devices. Google does these things in direct violation of New Mexico law.

24. New Mexico provides a statutory civil cause of action to recover money paid and lost due to gambling. Section 44-5-1 of the New Mexico Statutes provides:

Any person who shall lose any money or property at any game at cards, or at any gambling device, may recover the same by action of debt, if money; if property, by action of trover, replevin or detinue.

CLASS ALLEGATIONS

25. Plaintiff seeks to certify and represent a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure. The class sought to be certified is:

All New Mexico residents who downloaded, played, and paid money for additional coins within games from the Google Play Store that

featured slots, roulette, blackjack, poker, keno, craps, and other kinds of casino-style gambling games, bingo, or simulations thereof, where the player had a chance to win coins or other means to play for additional periods of time, during a period commencing one year before the filing of this complaint and continuing to a date to be set by the Court following certification. All employees of the Court, and plaintiff's counsel and their families are excluded.

26. This class action satisfies the numerosity requirement of Rule 23(a)(1) because joinder of all members of the plaintiff class is impracticable. There are thousands of New Mexico residents who are members of the class.

27. It also satisfies the commonality requirement of Rule 23(a)(2) because there are central questions of fact and law that are common to the class. Such common questions include, at a minimum, (a) whether these virtually identical gambling games sold through the Google Play Store violate New Mexico's prohibition of illegal gambling; (b) whether gambling for additional play-time is a thing of value under New Mexico law; (c) whether Google committed the offense of commercial gambling through its participation in the sale of in-app purchases through the App Store; and (d) whether plaintiff and the class members are entitled to recover their money pursuant to Section 44-5-1 of the New Mexico Statutes.

28. The proposed class satisfies the typicality requirement of Rule 23(a)(3) because the named plaintiff's claims are typical of the claims of the class members. Both plaintiff and the class members lost money in an effort to win additional play-time on these illegal gambling games.

29. The named plaintiff will fairly and adequately represent the interests of the class pursuant to Rule 23(a)(4). Plaintiff has no interests that conflict with the interests of the class. Furthermore, plaintiff has retained competent and experienced counsel with decades of experience litigating class cases.

30. Plaintiff seeks certification of a class pursuant to Rule 23(b)(3), which allows class treatment of a claim where:

(3) the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include:

(A) the class members' interests in individually controlling the prosecution or defense of separate actions;

(B) the extent and nature of any litigation concerning the controversy already begun by or against class members;

(C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(D) the likely difficulties in managing a class action.

31. The common questions of law and fact in this case vastly predominate over any individual issues affecting only individual class members. The *only* individual issue presented by these class members is the exact amount of money damages to which each class member is entitled. Such damages issues are routinely held not to predominate over common questions in cases like this. Indeed, the

individual damages issues will be quickly and accurately determined by examining Google's own records.

32. Class treatment is by far superior to individual litigation as a fair and efficient way to adjudicate this controversy. Given the relatively small individual amounts at issue, it unlikely whether there would be any adjudication at all without use of the class device. No individual class member would rationally commence and prosecute a lawsuit where the individual amount in controversy likely would not exceed the filing fees.

33. For this reason, none of the class members have any interest in controlling the prosecution of separate actions.

34. Likewise, to our knowledge, no class member has already commenced an action concerning this controversy.

35. It would much more desirable to concentrate this case in one action rather than allow the prosecution of individual actions because, as noted, such individual actions would likely never be filed because there would be no motivation for any individual class member to file an individual suit.

36. We foresee no particular difficulties in managing this case as a class action because 100% of the necessary information to compensate the individual class members is contained in Google's own records concerning purchases made through the Google Play Store.

CAUSE OF ACTION

37. Plaintiff, on his own behalf and on behalf of those similarly situated, seek recovery of all sums paid through in-app purchases in these games made through the Google Play Store pursuant to Section 44-5-1 of the New Mexico Statutes, 2018.

COUNT II: VIOLATION OF 18 U.S.C. § 1962(c)

38. Plaintiffs incorporate by reference all of the factual material previously stated in this complaint.

39. The Racketeer Influenced and Corrupt Organizations Act (“RICO”), codified at 18 U.S.C. Chapter 96, prohibits any person from using racketeering activity or the collection of unlawful debt to maintain an interest in any enterprise engaged in interstate or foreign commerce. 18 U.S.C. § 1962(b).

40. Under RICO, an enterprise is “any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact, although not a legal entity.”

41. Together with the developers who create the casino-style gaming apps available on the Google Play Store, the google Defendants form an association-in-fact that has a common purpose and has existed throughout the time period at issue in this Complaint.

42. As an entity holding legal interest in property, Google is, and at all relevant times has been, a “person” as that term is defined in 18 U.S.C. § 1961(3).

43. The statute, in 18 U.S.C. § 1961(1), defines racketeering activity to include any act indictable under 18 U.S.C. § 1955.

44. 18 U.S.C. § 1961 defines “unlawful debt” to include debt “incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof...” 18 U.S.C. § 1961(6).

45. 18 U.S.C. § 1955 prohibits conducting, financing or otherwise participating in illegal gambling businesses, which include those that violate state law, involve five or more persons, and remain in operation in excess of thirty days.

44. Google’s participation in the scheme described above, including its predicate violations of state law, violates Section 1955 and its maintenance of the enterprise existing between itself and the gambling apps is unlawful under RICO, because Google maintains its interest in this enterprise through racketeering activity and the collection of illegal debt. 18 U.S.C. § 1962(b).

45. Google’s conduct has caused Plaintiff and member of the class to be deprived of money and property. Under 18 U.S.C. § 1964(c), Plaintiff and the Class are entitled to treble their damages, plus interest, costs, and reasonable attorneys’ fees.

PRAYER FOR RELIEF

WHEREFORE, the premises considered, plaintiff asks the Court to:

1. Take jurisdiction of this cause;
2. Following discovery, certify this case as a class action pursuant to Rule 23(b)(3);
3. Appoint the undersigned as Class Counsel and the named plaintiff as class representative;
4. Enter a final judgment against Google awarding plaintiff and the class members a refund of all money paid through the illegal gambling games described herein and awarding treble damages under RICO;
5. Award Class Counsel reasonable attorneys' fees and expenses to be paid out of the judgment in favor of the class;
6. Award the named plaintiff a reasonable sum of money for her services in this case on behalf of the class, also to be paid out of the judgment in favor of the class;
7. Award interest and costs; and
8. Award any other relief to which the Court finds plaintiff and the class

are entitled.

Respectfully submitted,

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